

RITER EKKER
KERRY B. EKKER

IBLA 81-984

Decided October 6, 1981

Appeal from decision of Utah State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. U MC 82211 through U MC 82215.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment--National Park Service

Pursuant to 43 CFR 3833.4 and 36 CFR 9.5(d), unpatented mining claims located on lands within any unit of the national park system which were recorded in accordance with 16 U.S.C. § 1907 (1976), are properly deemed abandoned and void if a notice of intention to hold is not properly filed for record in the office where the location notice is recorded and a copy of the recorded instrument filed with the proper office of BLM on or before December 30 of each year, as required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976).

APPEARANCES: David K. Smith, Esq., Salt Lake City, Utah, for appellants.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Riter Ekker and Kerry B. Ekker appeal the June 22, 1981, decision of the Utah State Office, Bureau of Land Management (BLM), which

deemed the Tesi Nos. 1 through 5 unpatented mining claims, U MC 82211 through U MC 82215, abandoned and void because a notice of intention to hold the claims was not filed with BLM prior to December 31, 1979, as required by 43 CFR 3833.2-1(b)(1). 1/

The claims are situated within the Glen Canyon National Recreation Area, under jurisdiction of the National Park Service (NPS). Notices of the claim locations were timely recorded with NPS pursuant to section 8 of the Mining in the Parks Act, 16 U.S.C. § 1907 (1976). Owners of the claims were thereby excused from the performance of annual assessment work, but not from the annual requirement to file a notice of intention to hold the mining claims.

Appellants state they had been in litigation over these mining claims for more than 2 years and that their right to hold the claims was well established. On December 30, 1980, they had submitted notices of intention to hold the claims for 1978, 1979, and 1980.

Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), however, requires the owners of unpatented mining claims on public land to file either a notice of intention to hold the claim or proof of assessment work performed on or for the benefit of the claim, on or before December 30 of each calendar year, with the office in which the notice of location is recorded, and to file a copy of the official record with the proper office of BLM, also on or before December 30 of each year.

[1] As the subject claims had been excused from the performance of annual assessment work, it was necessary that a notice of intention to hold the claims be filed in accordance with section 314 of FLPMA, *supra*. There is no record in the case files that such notice was filed with BLM on or before December 30, 1979. BLM therefore properly deemed the claims to be abandoned and void. 43 U.S.C. § 1744(c) (1976); 36 CFR 9.5(d); 43 CFR 3833.4.

Appellant's reliance upon a determination by a court that title to the mining claims is established in them does not relieve them from compliance with the Federal statutory requirements. All persons dealing with the Government are presumed to have knowledge of the pertinent statutes and duly promulgated regulations thereunder. Federal Crop Insurance Corporation v. Merrill, 332 U.S. 380 (1947); Abram H. Kreider, 57 IBLA 68 (1981); Gordon L. Cooper, 51 IBLA 191 (1980); Donald H. Little, 37 IBLA 1 (1978); 44 U.S.C. §§ 1507, 1510 (1976). The responsibility for complying with the recordation requirements of the pertinent statutes and regulations rested with appellants. This Board has no authority to excuse lack of compliance or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

1/ The decision should have stated that claimants had failed to file the appropriate instruments on or before October 22, 1979.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques

Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Gail M. Frazier
Administrative Judge

